

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DOMMINIQUE ADAMS

§

VS.

§

CIVIL ACTION NO. 6:21cv261

BRYAN COLLIER, ET AL.

§

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Domminique Adams, an inmate within the Texas Department of Criminal Justice (TDCJ), through counsel, filed this numbered civil rights lawsuit concerning an incident that occurred at the Michael Unit—through a notice of removal stemming from Anderson County, Texas. The petition/complaint was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On January 19, 2022, Judge Love issued a Report (Docket No. 17) recommending that Defendants' motion to dismiss (Docket No. 10) be granted in part and denied in part. Specifically, Judge Love recommended that Defendants' motion under Rule 12(b)(1) be denied. He also recommended that Defendants' motion under Rule 12(b)(6) be granted for Adams's failure to state a claim upon which relief may be granted and that Defendants be granted qualified immunity. Finally, Judge Love recommended that all of Adams's remaining state law claims be remanded to the District Court for Anderson County, Texas.

The Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir.

1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten days to fourteen days).


Here, Plaintiff has not filed objections. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 17) as the findings of this Court. Therefore, it is

ORDERED that Defendants' motion to dismiss, (Docket No. 10), is **DENIED** in part and **GRANTED** in part. Defendants' motion to dismiss under Rule 12(b)(1) is **DENIED**. In all other respects, pursuant to Rule 12(b)(6), the motion is **GRANTED** and Plaintiff's civil rights action pursuant to 42 U.S.C. § 1983 is **DISMISSED**, with prejudice, for Plaintiff's failure to state a claim upon which relief may be granted. The remainder of this case, which contain only claims brought pursuant to state law, is **REMANDED** to the 87th Judicial District in the District Court of Anderson County, Texas. Finally, it is

ORDERED that any and all motions which may be pending in this cause of action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **14th** day of **February, 2022**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE